# Litchfield Planning Board April 20, 2010

Minutes approved 5/18/10

### **Members Present:**

Alison Douglas, Chairman Carlos Fuertes Frank Byron, Selectmen's Representative John Miller, Alternate (arrived at 7:22 p.m.)

## **Members not present:**

Edward Almeida, Vice Chairman Jayson Brennen Leon Barry

### Also present:

Joan McKibben, Administrative Assistant Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

### **AGENDA:**

- 1. HOME OCCUPATION Daycare at 49 Burgess Drive
- 2. ROLLING ACRES IV Subdivision Update
- 3. FEDERAL FOOD LEGISLATION Andrew Prolman

### **Any Other Business**

Chairman Douglas called the meeting to order at 7:22 p.m. Chairman appointed Alternate John Miller as a voting member.

## 1. HOME OCCUPATION - Daycare

Carlos Fuertes recused himself being an abutter.

**Application Acceptance -** Applicant Kelly Douglas, 49 Burgess Drive, was present. The Home Occupation application is for a licensed daycare for 6 pre-school children and 3 school-aged children (applicant's children). Chairman Douglas explained the application process to the applicant. Abutters have been notified and fees paid.

Mrs. Kelley Douglas came forward to talk about the home occupation application. She would be the only employee utilizing 500 square feet for the day care. The hours of operation is from 7:00 a.m. to 5:00 pm. Monday thru Friday. It was noted that the Health Officer has not inspected the residence as yet.

Mr. Miller **MOTIONED** to accept the application. Mr. Byron seconded. Motion carried 3-0-0.

**Application Approval -** Mrs. Kelly Douglas said that she is licensed for 6 pre-school children, 6 six months to kindergarten, plus her own children for a total of nine children. She told the Board that there would be no issue with parking because she has a turnaround driveway and there is adequate space for cars to pull in and out. There is a fenced in play area in the back yard and there will be no signage. Talk ensued. She does have substitute providers if needed and this is a requirement of the State license.

Chairman opened the meeting to public comment.

Mr. & Mrs. Angelo & Patricia Valenti, 1 Lydston Lane, said they had no objections to the home occupation. Mr. Carlos Fuertes, 2 Lydston Lane, said that he had no problems and he supports the home occupation. Chairman closed public session. Once the home is inspected, a copy of the Health Officer's report would be placed in the file.

Mr. Byron **MOTIONED** to approve the Home Occupation permit for Kelly Douglas to have a licensed daycare, Tax Map 19 lot 278. Mr. Miller seconded. Motion carried 3-0-0. She will provide the Board with a copy of the State license.

Mr. Carlos Fuertes returned to the Board.

#### 2. ROLLING ACRES IV

Attorney Andrew Prolman representing the applicant Mr. Manoukian was present. The Planning Board had requested that the applicant, or his representative, come before the Board this evening to discuss the status of the conditional approval of May 6, 2008, regarding Rolling Acres Phase IV and the fees owed to the Town in the amount of \$7,444. The applicant has proposed a payment schedule which is being reviewed by Town Counsel. Initially a public hearing was to be held but it was postponed. All in all, the Planning Board is looking for an update from the applicant.

Att. Prolman: There is not a lot of substance to report on this thing...background is finance issues but since the approval two years ago we all know the economy has gone down hill, residential financing has been difficult but it has been two years and it is time. Attorney Prolman further stated that with respect to the fees that with the escrows to be paid, it is more in the ballpark of \$20,000 and they have been outstanding for a long time.

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Att. Prolman: What is outstanding is Phase III and IV, and Phase IV is in conditional

approval status and the conditions have not been met and when the engineer was not getting paid, work stopped on the project. There are outstanding conditions in Phase IV and they have not progressed much since the conditions were established with the approval. Phase IV remains one big lot and there are the additional 4 house lots out there but Phase III is where the Board could say pay up what you owe us in a certain amount of time because it is a recorded subdivision.

It was noted that between Phase III and IV, money owed is \$7,400 on Phase IV and Phase III there is outstanding money in the amount of \$2,000. The \$20,000 has to do with two \$10,000 escrow accounts and if not paid work could not be started.

Attorney Prolman went on to talk about the financing in regards to the site and how it is messed up because of the mortgage ponzi scheme. "If you did title research on Phase III and Phase IV, you would find six or seven different mortgages, individual mortgages and those mortgages came out of Financial Resources Mortgage. The mortgages are outstanding and are supposed to be paid and the bankruptcy court has issued an injunction against anything happening with these mortgages - payments, foreclosure as well as hundreds of others throughout New Hampshire and other states". Talk continued.

Attorney Prolman said that these lots are subject to the injunction. Att. Prolman: I have been in touch with the trustee and they have said to us if you can strike a deal with these six or seven mortgage holders, we, the Trustee, will bless it, bring it to the bankruptcy charge and you can go ahead with clear title and you can go on your merry way. That process is going to take some time. Attorney Prolman said that he did speak with Reggie Moreau and he is interested in taking the project over if you can sort through the financing mess and clean up titles.

Att. Prolman indicated that is where the project stands. Att. Prolman: My only other thought is if you were to leave Phase III alone and Phase IV fees are owed and conditions are outstanding for too long, we revoke the plan. I believe you have the power to do that. You then have a weird subdivision because you have Phase III cookie cutter one-acre lots and the rest of the project it would be subject to the open space ordinance...if the conditional approval Phase IV goes away, is revoked, probably not much is going to happen with these because remember the zoning line, I had to go to the Zoning Board to get the variances because of the split zone, the commercial/industrial splits right through these lots in Phase III and Phase IV...given that the great big lot plus what was once Phase IV would be subject to the Open Space Ordinance and in order to make that work, you would have to go to the Zoning Board.

It was asked if the Town is listed as a creditor on the bankruptcy. Attorney Prolman said the Town is not stuck in the middle of the bankruptcy; it does not affect the Town. The bankruptcy is involving Financial Resources Mortgage and what they did is they brought

investors in and the investors have the mortgages.

Mr. Miller: It sounds like the financials for us are broken up in two areas - the fees owed...and the escrow actions of the two \$10,000 are going to be dependent on when someone is going to start to do something. It sounds like we should make that distinction because if we talk about any of the escrow fees, the first thing he is going to say it is going to take me six months or a year to get through the mess of title. I do not want to tie up \$20,000 to do something I can't do.

It was pointed out that the applicant Mr. Manoukian or Cutler and Page LLC are not in bankruptcy. Mr. Byron indicated that Mr. Manoukian is trying to sell the subdivision to someone to be able to start construction...and if the Planning Board revokes the subdivision, then the sale is going to fall through. So, it is a balancing act being strong enough to get the money paid back but at the same time...if he is capable of selling that it does not get wiped out by voiding the subdivision.

Att. Prolman: That is absolutely true. If Phase III goes away then...

Mr. Byron: Any interested developer is not going to be interested because he will have to go back to the planning process.

Att. Prolman: The price would be drastically reduced.

Mr. Byron: Yes because the subdivision no longer exists.

Mr. Miller: It is all the more reason to pay the fees.

Mr. Byron: I would work with Town Counsel and make sure you make it very clear on what steps you want to take and to me...the Town is owed \$9,400 and we should get it back and the way to do it is to say show us why we should not revoke this because you have not paid your bill and get aggressive.

Mrs. Joan McKibben told the Board that she had met with Mr. Manoukian and that he has asked for a payment plan for Phase IV in the amount of \$500 a month but Mrs. McKibben told him \$1,000 a month and he had agreed.

### FEDERAL FOOD LEGISLATION

Attorney Andrew Prolman, a resident, talked about an article in the Nashua Telegraph that he would like to bring to the Board's attention regarding the farmlands. He became aware of the situation after seeing a letter from Don Wilson, Wilson Farms, in the paper.

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There is federal legislation pending before Congress and one of the sponsors is Judd Gregg. It is intended to tighten up food regulations and the handling of food...the legislation came out of the ecoli scares and other diseases.

Mr. Prolman: So, they needed to create a new regulatory scheme that highly controls the processing and handling of all food products grown in the country. Don Wilson caught this and said it is all well and good for other parts of the country where they grow one crop on 10,000 acres but it does not work for New England because New England farmers to survive have to grow many different crops all year long. Don tells me that he has 100 varieties of vegetables coming off his farms in Lexington and Litchfield. He said this law is taking a one size fits all approach and if this law applies to small farms, it is going to be cost prohibitive to do business because every fruit or vegetable that makes it onto to your table, or your restaurant, has to be labeled and scanned.

The reason for the legislation is to track the fruit or vegetable back to the farms so they know where it came from if there is an outbreak. Mr. Prolman told the Board that Mr. Wilson indicated it is not a bad idea but for our type of farming in New England...it is going to hurt them. For example in New England there is a 14 to 16-day strawberry harvest but in California they have a 300-day harvest...

Mr. Prolman provided the Board with a copy of Don Wilson's letter, the article in The Telegraph, and the Bill. He suggested that maybe the Town would want to discuss this legislation with Judd Gregg's staff scheduled to be present in the Town Hall next week. With this Attorney Prolman left the meeting.

#### ANY OTHER BUSINESS

The re-appointment of Leon Barry has been approved by the Board of Selectmen.

#### NONPUBLIC SESSION

Chairman Douglas **MOTIONED** to go into nonpublic session per RSA91A:3II(c) matters which if discussed in public would likely affect adversely the reputation of any person other than a member of the public body itself unless such person request an open meeting. Mr. Byron seconded. Roll call: A. Douglas, yes; F. Byron, yes; C. Fuertes, yes; J. Miller, yes. Motion carried 4-0-0.

At 8:45 p.m. Chairman Douglas **MOTIONED** to come out of nonpublic session. Mr. Fuertes seconded. Roll call: A. Douglas, yes; F. Byron, yes; C. Fuertes, yes; J. Miller, yes. Motion carried 4-0-0.

Chairman Douglas **MOTIONED** to keep the minutes nonpublic. Mr. Miller seconded. Motion carried 4-0-0.

There being no further business, Chairman Douglas **MOTIONED** to adjourn the meeting. Mr. Byron seconded. Motion carried 4-0-0. The meeting adjourned at 8:53 p.m.

| Alison Douglas, Chairman |
|--------------------------|
| Carlos Fuertes           |
| Frank Byron, Selectman   |
| John Miller, Alternate   |

Lorraine Dogopoulos Recording Secretary (transcribed from tape)